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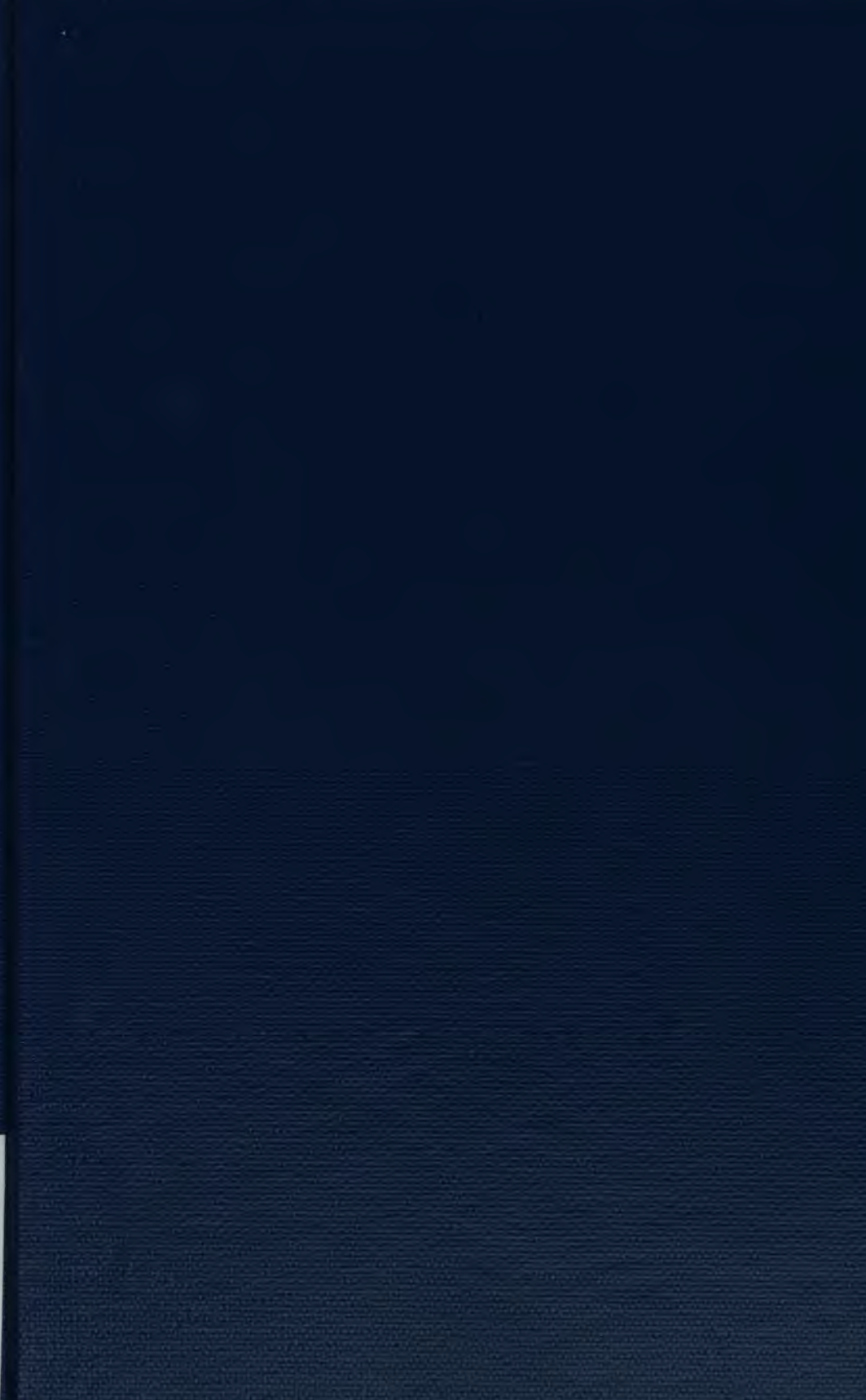
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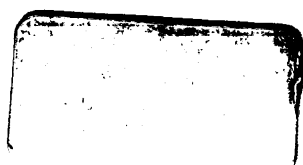
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An Historical Sketch  
of the  
Law Department of the University  
of Pennsylvania.

*Hampton L. Carson*  
By HAMPTON L. CARSON, Esq.,  
(Class of 1874.)

Read by request before the Society of the Alumni, the Law Faculty and  
Undergraduates of the Department, in the Chapel of  
the University, October 10, 1882.

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JAMES WILSON,

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Professor of Law, March 20, 1817, to time of death in 1826.

GEORGE SHARSWOOD,

Professor of Law, April 2, 1850, to May 4, 1852.

GEORGE SHARSWOOD,

Professor of the Institutes of Law, May 4, 1852, to January 23, 1868.

PETER McCALL,

Professor of Practice, Pleading and Evidence at Law and in Equity,  
June 1, 1852, to June 5, 1860.

E. SPENCER MILLER,

Professor of the Law of Real Estate, Conveyancing, and Equity Jurisprudence, June 1, 1852, to June 4, 1872.

P. PEMBERTON MORRIS,

Professor of Practice, Pleading and Evidence at Law and in Equity,  
October, 1862; present incumbent.

J. I. CLARK HARE,

Professor of the Institutes of Law, June, 1868; present incumbent.

E. COPPEE MITCHELL,

Temporary Lecturer on Real Estate Law, October, 1872, to April, 1873.

E. COPPEE MITCHELL,

Professor of the Law of Real Estate and Conveyancing and Equity Jurisprudence, April, 1873; present incumbent.

JAMES PARSONS,

Professor of Personal Relations and Personal Property, February, 1874;  
present incumbent.

JOHN J. REESE, M. D.,

Professor of Medical Jurisprudence, February, 1874; present incumbent.

## Historical Sketch.

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The Law Department of the University of Pennsylvania can justly claim an honorable though not an ancient ancestry. One of the youngest among her sister departments, she was for years a weak and sickly child, but having lived to outgrow the perils of infancy, has attained to a degree of robust and vigorous health that gives fair promise of a green old age. Her history forms an interesting and important chapter in that of the University.

Pursuing the natural order of biography, it will be proper to first briefly consider her parentage, and the quality of the stock from which she sprung.

The first colonists of Pennsylvania, sensible of the advantages to be derived from the proper education of youth, were at some pains to provide the means of elementary instruction. A public school, under the protection of the Proprietary, had been established in 1689 by the Society of Friends, and finally chartered in 1711, while one Enoch Flower had opened a private school in Philadelphia as early as 1683.<sup>1</sup> The higher branches of knowledge, however, could be acquired only by a residence abroad or in one of the older colonies, but the expense attending such a course closed the doors to all those of moderate means. Benjamin Franklin, quick to perceive a public need and ever ready to suggest appropriate relief, in 1743, as he himself tells us, drew up a plan for an academy, and sought to interest the Rev. Richard Peters in

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<sup>1</sup> Proud's History of Pennsylvania. Vol. I., p. 345, note. Philadelphia, 1797.

the work. Failing in this, and distracted by the state of public affairs, he dropped the scheme for a time; but in 1749, resuming his plan with ardor, he called about him from the celebrated Junto a number of his most active and enlightened friends, and submitted to them his "Proposals Relating to the Education of Youth in Pennsylvania."<sup>1</sup>

The project was successful; trustees were chosen, constitutions were drawn up, masters were engaged, schools were opened, property was purchased, and on the 13th of July, 1753, a charter was obtained from Thomas and Richard Penn, Proprietaries, by which the trustees were incorporated under the style of "The Trustees of the Academy and Charitable Schools in the Province of Pennsylvania."<sup>2</sup> The Academy comprehended an English school, a school for arithmetic and the practical branches of mathematics, and a Latin and Greek school. The Charitable School was divided into two departments: one for the reception of thirty girls, to be taught reading, writing, and sewing; and one for the reception of sixty boys, who were to be instructed in reading, writing, and arithmetic. These being well conducted, and continuing to flourish, the trustees were encouraged to extend their designs by the establishment of two additional schools: one for teaching natural philosophy in conjunction with the higher branches of mathematics; the other for natural theology, psychology, moral philosophy, logic and the higher classics. These additions rendered the charter inadequate. An amended and more liberal charter was therefore granted on the 16th of June, 1755, which put all the schools under one direction and changed the title to that of "The Trustees of the College, Academy and Charitable Schools in the Province of Pennsylvania." The powers usually attached to such a title were bestowed.<sup>3</sup>

<sup>1</sup> The Life of Benjamin Franklin. Written by Himself. Pages 99-101. Continuation by Dr. Stuber. New York, 1820.

<sup>2</sup> Acts of Assembly relating to the University of Pennsylvania, together with the Revised Code of its Statutes and By-Laws. Adopted November, 1877. Pages 3-9.—History of The University of Pennsylvania. By George B. Wood, M.D.—Memoirs of The Historical Society of Pennsylvania. Vol. III., p. 180.

<sup>3</sup> Acts of Assembly, Statutes and By-Laws, *ut supra*.

Under the direction of the Rev. Dr. William Smith, who was chosen provost in 1754, the institution grew rapidly into favor, and drew from Maryland, Virginia, the Carolinas, and even the West Indies, the children of planters, who were attracted thither in preference to the schools of England.

In 1765, through the exertions of Drs. Shippen and Morgan, the Medical Department was established, with four professorships, and became the centre of medical teaching on this continent, renowned at home and abroad for the talents and industry of its teachers.<sup>1</sup>

In 1779 the prosperity of the Institution was rudely checked. Notwithstanding the clause of the Constitution of 1776 which secured to all societies "incorporated for the advancement of religion and learning or for other pious or charitable purposes" the enjoyment of all rights and privileges possessed under former laws of the Commonwealth, the Legislature abrogated the charter of the college under the cover of frivolous and groundless charges of a political nature against her officers, confiscated the college estates, and created a new body politic under the loftier title of "University of the State of Pennsylvania," and endowed it with the fruits of spoliation. The title of the Act was disingenuous and misleading, and proved that the men of that day were quite as crafty as any of their descendants. An act of outrage and robbery was termed "An Act to confirm the Estates and Interests of the College, Academy and Charitable Schools of the City of Philadelphia, and to amend and alter the Charters thereof conformably to the Revolution and to the Constitution of this Commonwealth, and to erect the same into an University." The new board of trustees met in December, 1779.

The late authorities of the college and their justly indignant friends were too spirited to submit without a struggle. They petitioned successive legislatures for a redress of grievances; and at last, after ten years of angry conflict, aided by the

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<sup>1</sup> A History of The Medical Department of The University of Pennsylvania, from its Foundation in 1765. With Sketches of the Lives of Deceased Professors. By Joseph Carson, M.D., Professor of Materia Medica and Pharmacy. Philadelphia, 1869.

silent, if not the active, sympathy of Dr. Franklin, who had been one of the most influential trustees, but chiefly by the brilliant eloquence and convincing logic of their counsel, James Wilson, obtained, in 1789, an act reinstating them in all their former estates and privileges, and stigmatizing the former wrong as "repugnant to justice, a violation of the Constitution of this Commonwealth, and dangerous in its precedent to all incorporated bodies."<sup>1</sup>

It was soon apparent that two separate institutions could not successfully exist, and, happily, jealousy yielding to wisdom, measures were taken to produce a harmony of interests, which culminated in an act of the Legislature of 30th September, 1791, by which the two corporations were united under the title of "The University of Pennsylvania."

After the restoration of the rights of the College, but before the union with her rival, there was added to the Departments of Arts and Sciences and Medicine a Department of Law. The time chosen was auspicious. It was in October, 1790. The War for Independence was over: law and order had resumed their sway. An act of justice, long delayed, had been done. The edifice of a great republican government had been reared; a new and better constitution for the State had just been framed; the newly risen stars of national federalism and local self-government were in conjunction—a horoscope favorable to the birth of a seminary devoted to the spreading of the truth that in a proper knowledge of the law lay the best safeguard of the perpetuity of our institutions. The spiteful dislike and suspicious dread of lawyers, common to provincial days, had died away.<sup>2</sup> A great social as well as

<sup>1</sup> Acts of Assembly relating to The University of Pennsylvania, together with the Revised Code of its Statutes and By-Laws. Adopted November, 1877. Pages 27, 28.—A Memoir of the Rev. William Smith, D.D., Provost of the College Academy and Charitable School of Philadelphia. By Charles J. Stillé. Philadelphia, 1869.

<sup>2</sup> There are many curious instances to be found in our early laws and Colonial Records of the general distrust entertained by the community of the legal profession, but none more striking than that furnished by Gabriel Thomas: "Of Lawyers and Physicians I shall say nothing, because this Country is very Peaceable and Healty (*sic*); long may it so continue, and never have occasion for the Tongue of the one, nor the Pen of the other—both equally destructive to Men's Estates and Lives; besides, forsooth, they, Hangmanlike, have a License to Murder and make Mischief." An Historical and Geographical Account of the Province and Country of Pennsylvania and of West Jersey in America, etc. By Gabriel Thomas, who resided there about fifteen years. London, 1698. Page 10.

political change had been wrought. The Revolution had largely put a stop to the education of our leading lawyers in the Temple. William Lewis had studied law in the office of Nicholas Waln, but Edward Tilghman, Edward Shippen, Benjamin Chew, and William Rawle had studied in the Middle Temple, while Andrew Hamilton is believed to have studied in Gray's Inn.<sup>1</sup> It was proper that henceforth our advocates and counsellors should be educated at home, and it was in this spirit that the first Assembly of Pennsylvania had passed an act "for teaching the laws in the schools."

The thought of establishing a Law department did not originate within the College. The credit of a first attempt at associated effort in the mastery of the law is clearly due not to preceptors but to students. At a meeting of the trustees, held March 16, 1789, at which Dr. Franklin, Governor Mifflin, Right Rev. Bishop White, Francis Hopkinson and others were present, Mr. Hopkinson requested that a number of young gentlemen, students in law, who had formed themselves into a society for their mutual improvement, might have permission to hold their meetings in one of the rooms of the college. The request was granted.<sup>2</sup>

The next step was taken by a gentleman of professional eminence. At a special meeting, held July 10, 1790, Charles Smith, Esq., through the Provost, laid before the board of trustees a communication, setting forth "that among the many other improvements of the plan of liberal education in this college, the institution of a Law Lecture or Lectures has been considered as very necessary and essential; that the said Charles Smith is desirous to open a Law Lecture, and to read a sufficient course during the winter of every year, under such regulations as the college may deem proper, if he should be judged worthy of an appointment to a professorship for that purpose; that he wishes an early determination of the

<sup>1</sup> The Leaders of the Old Bar of Philadelphia. By Horace Binney.—Address delivered before The Law Academy of Philadelphia. By Peter McCall. 1838.—A Memoir of William Rawle, LL.D. By T. I. Wharton, Esq.—Duponceau's Recollections of William Rawle.—Memoirs of The Historical Society of Pennsylvania. Vol. IV.

<sup>2</sup> Minutes of the Board of Trustees. Vol. II, p. 171.

trustees on his application, so that, if he should have the honor of being appointed, he may have sufficient time to prepare himself for opening his lectures in November next, as he has been encouraged to expect a considerable number of pupils, or, if the trustees are not yet prepared to make the necessary regulations for an immediate appointment, he begs leave to open such a lecture on his own risque as a candidate for a professorship when it may be thought proper."<sup>1</sup> The matter was referred to the consideration of a future meeting.

The record is strangely silent as to any disposition of Mr. Smith's application. The written evidence shows that his ideas were deliberately appropriated, and he himself coolly thrust aside. No answer was ever directed to be sent to him, nor was he even tendered the compliment of a nomination for the place, the creation of which he had suggested. His request for an "early determination" was speedily met, it is true, but hardly in a manner to be approved of. His expectations were ruined, his enterprise was defeated, and his claims to the authorship of the scheme quietly ignored. He was not a man too small to fill the place. The notes to his celebrated edition of the Laws of Pennsylvania evince abundant learning and accurate scholarship; they constitute an imperishable part of our local jurisprudence. The treatment he received is inexcusable. If there be evidence to moderate this judgment, it has either perished or is inaccessible.

Four days after Mr. Smith's communication was entered on the minutes, it was ordered that, in the notices for the next monthly meeting, it be inserted that an application for a Law Professorship, the propriety of establishing a Law Lecture, and conferring degrees in law, are to come under deliberation. On August 6th the question was postponed and new notice given. The next day Messrs. Shippen, Wilson and Hare were appointed a committee to consider of the propriety and utility of establishing a Law Professorship, and also to report the duties thereof. On the 14th the committee submitted their

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<sup>1</sup> Minutes, p. 209.

report, consisting of a plan drawn by Mr. Wilson, which became the basis of the organization of the school. It embraced constitutional law, international law, the origin and rules of the common law, the civil law, maritime law and the law-merchant. The design was "to furnish a rational and an useful entertainment to gentlemen of all professions; and in particular to assist in forming the Legislator, the Magistrate and the Lawyer."<sup>1</sup>

The report was approved, and it was resolved that a Professorship of Law be established, and that a professor be appointed whose duty it shall be to deliver annually in the college at least twenty-four lectures agreeably to the plan. Notice was given that a Professor of Law was to be appointed. On the 17th of August it was ordered that the gratuity to be paid to the professor by the respective students shall be established with the approbation of the trustees. A ballot was then taken, and Mr. Wilson was unanimously elected.

Apart from the injustice and discourtesy to Mr. Smith, it was natural and fit that the board of trustees, in resolving to establish a Law Department, should turn to so distinguished a member of their own body as eminently qualified to discharge

<sup>1</sup> The plan in full is as follows :

The object of a system of law lectures in this country should be to explain the Constitution of the United States, its parts, its powers, and distribution, and the operation of those powers; to ascertain the merits of that Constitution by comparing it with the constitution of other States, with the general principles of government, and with the rights of men; to point out the spirit, the design and the probable effects of the laws and treaties of the United States; to mark particularly and distinctly the rules and decisions of the federal courts in matters both of law and practice.

To examine legally, critically and historically the constitutions and laws of the several States in the Union; to compare those constitutions and laws with one another, and with the general rules of law and government; to investigate the nature, the properties, and the extent of that connection which subsists between the Federal Government and the several States, and, of consequence, between each of the States and all the others.

To illustrate the genius, the elements, the originals, and the rules of the common law, in its theory and in its practice; to trace as far as possible that law to its fountains, to the laws and customs of the Normans, the Saxons, the Britons, the ancient Germans, the Romans, and perhaps in some instances the Grecians.

Under this head it is to be observed, that the common law, in its true extent, includes the law of nations, the civil law, the maritime law, the law-merchant, and the law too of each particular country, in all cases in which those laws are peculiarly applicable. All the foregoing subjects of discussion should be contrasted with the practice and institutions of other countries. They should be fortified by reasons, by examples, and by authorities; and they should be weighed and appreciated by the precepts of natural and revealed law.

The obvious design of such a plan is to furnish a rational and an useful entertainment to gentlemen of all professions, and in particular, to assist in forming the Legislator, the Magistrate and the Lawyer.

The lectures and exercises may be so prepared and arranged as to suit the different views of those who shall attend them.

Minutes of Trustees. Wilson's Papers. Lib. Hist. Soc. of Pa.



the difficult and responsible duties of the first Professor of Law, for James Wilson was the familiar associate of the public men of his day, a leading member of the Philadelphia bar, conspicuous among the illustrious signers of the Declaration of Independence, one of the architects of both his State and National governments, and but recently raised by the hand of Washington to the high place of Associate Justice of the Supreme Court of the United States.

His education and public experience had fully prepared him for the post. He was a native of Scotland, and had studied at Glasgow, St. Andrew's, and Edinburgh, under Dr. Blair in rhetoric and Dr. Watts in logic, and in 1761, at the age of twenty-one years, had emigrated to New York, and in 1766 arrived in Philadelphia. His attainments in the classics were remarkable; the student of his literary remains cannot fail to be impressed by the evidence of his familiarity with the history and philosophy of Greece and Rome. For a short time he was a tutor in the college, which now called upon him to again become her servant. He subsequently studied law in the office of John Dickinson, and after some years of practice at Reading, Carlisle, and Annapolis, came to Philadelphia, and was admitted to the Philadelphia bar in December, 1778. His political experience was great. An ardent advocate of American Independence, he was for six years a member of Congress, though not continuously, and was concerned in all the measures of government both during and after the war. In the principles of finance and constitutional law he was particularly learned. As an orator he held high rank both as an advocate and a parliamentary debater; and his speech in the Convention of Pennsylvania, called to adopt or reject the Constitution framed for the government of the United States, will compare favorably, as a luminous exposition of the work he had helped to perform, with any of the arguments in its favor to be found reported in Elliott's Debates. According to Mr. Curtis, it gained the vote of Pennsylvania for the new government against the ingenious and

captivating objections of its opponents.<sup>1</sup> He served in the Federal Convention as one of the "Committee on Detail," and submitted a draft of a Constitution, many of the leading features of which were subsequently adopted. In politics he was a Federalist, and a strenuous advocate of the national idea. His appointment as one of the Justices of the Supreme Court was dated 29th September, 1789; and we find him sitting at Circuit Court for the Pennsylvania and Virginia Districts with Justices Blair, Peters, Patterson, Chase and Iredell, and in the Supreme Court with Chief Justices Jay, Rutledge and Ellsworth. It is remarked by Mr. Watson, in his *Annals*, quoting the published opinion of William Rawle, that Judge Wilson on the bench did not equal Mr. Wilson at the bar. An examination of his judicial opinions, as published in the second and third volumes of Dallas's Reports, leads to the conclusion that the remark is just. Late in life he became deeply involved in speculations in land, and his financial misfortunes deprived him of the equanimity of mind so necessary to the proper performance of the duties of a judge, but apart from this, his temper and habits of thought were those of an advocate, and his style, tested by the standards of to-day, would be condemned as diffusive. The questions agitated before him were mainly those touching the jurisdiction of the courts of the United States: two of the cases, in the decision of which he participated, have become historic. The judgment, in the suit of *Chisholm, Exr., agst. the State of Georgia*, that a State could be sued by a citizen of another State, led to the Eleventh Amendment of the Federal Constitution. His decision at circuit in Virginia, in the cause of *Hylton vs. The United States*, sustaining the constitutionality of the carriage tax, was affirmed upon error, and has been relied on as satisfactory authority from that day to this.

Upon the establishment of the Law Department in the College of Philadelphia, Judge Wilson resigned his membership

<sup>1</sup> History of the Origin, Formation, and Adoption of the Constitution of the United States, with notices of its Principal Framers. By George Ticknor Curtis. Vol. I., p. 465. New York, 1865.

of the board of trustees to enter upon the duties of his chair. In the papers of the day there appeared a short account, dated October 26, 1790, of the state of the college and of the public lectures to be delivered during the ensuing winter, and the statement was made that great expectations had been justly formed of the usefulness of the law school lately instituted, from the great learning and experience of the Professor. The plan of the Law School, sketched by Judge Wilson, was published as a part of the notice, and the announcement made that lectures would begin about the 15th of November.<sup>1</sup>

The introductory lecture was delivered on the 15th of December, 1790, in the quaint old-fashioned hall of "The Academy," whose plainness recalled the simplicity of the times when the eloquence of Whitfield aroused the people to provide the shelter that sectarian prejudice had denied. The event was one of extraordinary interest. A distinguished and brilliant audience awaited the lecturer. The gallery was crowded with those citizens who had received tickets of admission from Judge Wilson himself; President Washington and his Cabinet, both Houses of Congress, the Supreme Executive Council, the members of the Assembly, the Mayor, Aldermen and Common Councilmen, the Judges of the Courts, citizens of mark and influence, and members of the bar, occupied the lower part of the hall,—“a polite assemblage;”—while the stately and powdered dames who clustered about Mrs. Washington and Mrs. Hamilton, of the Woodlands, by the interest they displayed, embarrassed the lecturer, who “never before had the honour of addressing a *fair* audience.”<sup>2</sup>

The genius of the orator soon conquered timidity, and paid a polished but glowing tribute to the most distinguished patriot of the world.

At the close of the lecture the annual Commencement was held, and the degree of LL.D. conferred upon the Pro-

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<sup>1</sup> Minutes of the Board of Trustees of the University of Pennsylvania.—Papers of James Wilson in the Library of The Historical Society of Pennsylvania.—*The Pennsylvania Packet and Daily Advertiser*. October 26, 1790.

<sup>2</sup> *Packet*. December 15, 1790. The invitation addressed to Mrs. Hamilton is now in the possession of Professor Mitchell. It was printed by Z. Poulson, Jr., in the simple fashion of the day.

fessor who had proved his ability to sustain it with honor. The lecture was much admired, and elegant extracts were published in the magazines of the day.<sup>1</sup>

Lectures were delivered on three days of every week, at six o'clock in the evening, at the college, and law exercises were held every Saturday. The extent of the plan rendered it impossible for the lecturer to complete his subjects in one season; three courses were necessary for the purpose. The first course was delivered in the winter of 1790-91, and consisted of those lectures contained in the first part of his published works. The second course, which was, in a great measure, delivered during the following winter, would have consisted, we are told by his son, of the remaining two published parts.<sup>2</sup> Interruptions occurred; the second course was not concluded, and after the union of the college with the university, though we find a resolution of the board of trustees of April 3, 1792, erecting a law professorship in the new seminary, and appointing Judge Wilson to fill the chair, yet no lectures were delivered. The cause is left to conjecture. Mr. Graydon and Mr. Rawle tell us that the lectures had not entirely met the expectations that had been formed. They are, it is true, rather the scholarly essays of an elegant writer upon general jurisprudence, illustrated by historical allusions, and colored by glowing tints, than the formal, exact and didactic utterances of the teacher of so precise a science as the law. It is to be feared that the encouragement afforded by students was slight,—an experience not peculiar to those days: Judge Wilson never shrank from the performance of duty, and never permitted public duties to conflict. We find him, shortly after, engaged upon a work of magnitude, which he would scarcely have undertaken to the neglect of other tasks. A solution may, perhaps, be found in the action of the trustees, who, in obedience to a request of Professor Wilson

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<sup>1</sup> *The Universal Asylum and Columbian Magazine*, for 1791. Vol. I., p. 9. Philadelphia.—*American Museum or Universal Magazine*. 8th Vol., 259; *Ibid.*, 9th Vol. p. 21. —An Introductory Lecture to Course of Law Lectures, by James Wilson, LL.D., to which is added a plan of the Lectures. Published by T. Dobson, Philadelphia, 1791.

<sup>2</sup> Preface to the Works of the Honble. James Wilson, LL.D. Published under the direction of Bird Wilson, Esq. Philadelphia, 1804.

to fix the amount of his fees, resolved that the amount of compensation to be demanded of each pupil should not exceed ten guineas. This was a flattering tribute to the Professor as an estimate of the value of his services, but not one likely to throng the lecture hall with students. The fees required of his office students were in excess of those asked by other members of the bar. When Bushrod Washington came to Philadelphia as a law-student, directed by his father to study with Mr. Wilson, he objected to the amount of compensation demanded, and it needed the advice and entreaty of General Washington to remove the scruples of his nephew.<sup>1</sup> The advantages to be secured at such a cost were slight. It is said that Mr. Wilson rarely entered his office except to consult his books, and devoted but little time to his students, among whom were Samuel Sitgreaves and Bushrod Washington. He never engaged with them in discussion; to a direct question he gave a short answer, and a general request for information was evaded or postponed. His mind, accustomed to dwell upon general principles and deal with the great problems of government, refused to descend to the trifles and technicalities and niceties of the law. He gradually withdrew from the Common Law Courts and confined himself to Admiralty Practice.<sup>2</sup>

It is known, however, that though the delivery of the lectures was discontinued, the author intended to complete his plan for publication. This he was destined never to accomplish, and the labor of editing and arrangement was well performed by his son, Bird Wilson, Esq., afterwards a distin-

<sup>1</sup> Letter of Judge Bushrod Washington to Rev. Bird Wilson, D.D. Wilson Papers. Historical Society of Pennsylvania. The fee charged was one hundred guineas. The original of the following note is in the possession of Professor Mitchell.

• Philada. March 22, 1782

I promise to pay James Wilson, Esq., or order on demand one hundred guineas His fee for receiving my nephew Mr. Bushrod Washington as a student of Law in his office.

G. WASHINGTON.

Endorsed :

Received 23rd July, 1782 from his Excellency General Washington one hundred guineas in full of the within note.

JAMES WILSON.

Endorsed in handwriting of Washington :

Rect. No. 135 James Wilson, Esq. 100 Guineas 23rd July 1782.

<sup>2</sup> Biography of the Signers. Vol. VI. *Wilson*. By Robert Waln, Jr Philadelphia, 1824. Lib. Hist. Soc. of Pa.

guished judge, and later a clergyman of the Episcopal Church, under whose direction three handsome volumes were published at Philadelphia in 1804. The passage from Cicero quoted on the title-page fitly embodies the principle that animated and directed the exertions of this remarkable man, toiling through many years for the public good: *Lex fundamentum est libertatis, qua fruimur. Legum omnes servi sumus, ut liberi esse possimus.*

In March, 1791, the lower house of the Assembly of Pennsylvania appointed Judge Wilson to revise and digest the laws of the Commonwealth, to ascertain and determine how far any British statutes extended to it, and to prepare bills containing such alterations, additions, and improvements as the code of laws, and the principles and forms of the Constitution then lately adopted, might require. In this work he made considerable progress, but it was finally abandoned, as a bill passed by the House providing for the expense of employing assistants and securing the necessary books was negatived by the Senate. Materials were then collected for a private publication, which the author did not live to arrange.

He also projected commentaries on the Constitution of the United States and the Constitution of Pennsylvania, and a report upon criminal law, and argued in favor of writing on the law in the same manner and style as of other sciences. He died at the age of fifty-six, in 1798, while on circuit, in the house of his associate, Judge Iredell, at Edenton, North Carolina.<sup>1</sup> He was twice married, and left six children; one grandchild, the daughter of his daughter Mary, wife of Paschal Hollingsworth, is now his only surviving descendant.

Many years after his death, Judge William Johnson, in his life of General Greene, charged Wilson with being one of the cabal opposed to Washington in 1777-78, and plotting his removal in the interests of Lee or Gates. The charge was disproved by Judge Peters, Judge Washington and Bishop White, in letters addressed to Rev. Bird Wilson, D. D., and on

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<sup>1</sup> Biography of the Signers to the Declaration of Independence. Vol. VI. *Wilson*. By Robert Waln, Jr. Philadelphia, 1824. Library of the Historical Society of Pennsylvania.

their evidence the author publicly retracted his statements and acknowledged his error.<sup>1</sup>

No degrees were conferred during Judge Wilson's professorship. For many years the chair remained vacant ; the only evidence of the existence of the department being a statute of the University declaring "there shall be a professorship of law ; the duties, powers and compensation of the professor shall be regulated by future resolutions of the board."

No step is traceable, among the many busy footprints of the trustees, of any attempt to fill the vacancy that existed until January 7, 1817, when, a Faculty of Natural Science having been established, it was resolved that, at the next stated meeting of the board, nominations would be received for the Professorship of Law. From time to time action was postponed, until March 20th, when Charles Willing Hare, Esq., was elected professor, and delivered his introductory lecture in April of that year. He announced his intention to deliver a course of lectures upon each of the following subjects: Natural jurisprudence, or the science of right and wrong, as discoverable by human reason, compared with, illustrated by, and carried into law. 2. International jurisprudence, or the laws which regulate the intercourse of different societies or nations, the parts and prerogatives of sovereignty, the duties of sovereigns, and the rights of government, the different forms of government, and particularly of the theory and practice of the Constitution of the United States and State of Pennsylvania. 3. All that is peculiar to and distinguishable in the jurisprudence of the United States and Pennsylvania, from that system from which our laws and institutions take their origin, and which is recognized by the common parent of these States. The subdivisions of the first course are then stated. The lecture evinces scholarship, extensive historical and philosophic knowledge, and occasional beauty and vigor of expression.<sup>2</sup>

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<sup>1</sup> Original Letters. Wilson's Papers. Lib. Hist. Soc.

<sup>2</sup> *Analectic Magazine*. December, 1818. Introductory Lecture by Charles Willing Hare, Esq., Professor of Law.

Mr. Hare, brother of the celebrated chemist Dr. Robert Hare, and uncle of the Hon. J. I. Clark Hare, was a lawyer of brilliant accomplishments. He was born in 1778, while his parents, Robert and Margaretta Hare, residents of Philadelphia, were guests at the house of a relation in Virginia. He was admitted to the bar of Philadelphia on the 7th of December, 1799, in the same year with Charles Chauncey, Jonathan K. Condry, John Sergeant and John B. Wallace. He was for a time a member of the lower house of the Legislature. He lectured but one season only. Shortly after his appointment he was afflicted by the loss of reason, and never resumed his professorial duties. He died in 1826 at the age of fifty-two years.<sup>1</sup>

Once again, for many years, the Law Department maintained but a nominal existence. In 1832 an effort was made to revive it, and, as before, the credit was due to the restless energy and ambition of law-students. On the 6th of March, a communication was addressed by a committee of the Law Academy of Philadelphia to the Board of Trustees of the University, soliciting the appointment of a Professor to the chair of Legal Science in that institution, and expressing regret that the attention received by law-students at Harvard, Yale, and the University of Virginia, should be denied at home; that while sister departments were sending forth accomplished men into all walks of life, and disseminating the principles of sound learning in science and literature, the chair once illustrated by the genius and eloquence of a Wilson and a Hare should remain vacant. It was insisted that important advantages would accrue to the University in extending her reputation, in drawing to her halls students in a new department of science, and in retaining at home those who then sought elsewhere that peculiar mode of instruction not to be found in our city. It was pointed out that Philadelphia presented numerous features of attraction favorable to the promotion of legal science, in her numerous Courts of Justice, in her

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<sup>1</sup> These facts are stated on the authority of the Rev. George Emlen Hare, D.D., son of the subject of the sketch, and professor in The Episcopal Theological Seminary of Philadelphia.



extensive libraries, and in the high and richly deserved reputation of her bar. And finally, it was urged that the number of law students in Philadelphia alone would prove sufficient, in all probability, to offer an inducement to the making of the appointment prayed for.<sup>1</sup>

It is strange that such an appeal should fall upon deaf ears; that such men as Chew, Gibson, Burd, Binney, Chauncey, Hopkinson, Waln, Cadwalader, Sergeant, Ingersoll, Rawle and Biddle should prove inattentive to a cry for assistance from those seeking to enter the profession of which they were the ornaments, and upon whom their cares and duties, as well as glory, were soon to fall. Yet such was the case. No trace can be found upon the minutes of any action on the part of the Board.<sup>2</sup>

For a decade and a half the highest and best interests of professional education were neglected. Oblivion had wrapped them in her mantle, and left no one to disturb their slumber. But a memorable epoch was approaching. The broken fortunes of the school were to be mended. An interest, destined to be permanent, was soon to be awakened. New blood was to be transfused into arteries that had long since ceased to throb with the pulsations of vigorous vitality. The demands of an increasing body of ambitious young men, eager to reap the benefits of a mode of teaching pursued with success both in Old and New England, could not long be disregarded. The irregular instruction of the office was to be supplemented by the systematic drill of the college. The preceptor, distracted by the calls of business, was to be aided by the painstaking professor. The dismal drudgery of copying instruments and drafting pleas was to be cheered by "the gladsome light of jurisprudence." The good prothonotary was to be fitted to become the counsellor; the future advocate was to be trained for the contentions of the forum. The value of office experi-

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<sup>1</sup> Minutes of the Board of Trustees. The address was signed by J. Pringle Jones, C. Theodore Potts, I. Wistar Wallace, H. K. Kneass and William D. Baker.

<sup>2</sup> It is just to the memory of the gentlemen above named to state that at that time the trustees were absorbed in the investigation and trial of charges against John Redman Cox, Professor in the Medical Department. The controversy for a time convulsed Philadelphia.

ence is inestimable, and no academic course can supply it. It is to the law student what clinical work or hospital practice is to the student of medicine; but what is thus acquired is by absorption rather than by deglutition and digestion. It is too frequently the sport of chance, and apt to vary with the changes of business seasons. Under the direction of a hard-worked practitioner the student is confined to certain bounds, it is true, but within these he is free to wander whithersoever he pleases; the streams of which he is to drink are not mingled for him, and he may taste of what he desires. It is of infinite service to him, therefore, to put himself in the hands of an experienced guide, who will personally accompany him through every step of the journey, and point out what is to be sought and what to be avoided. The wisest of Common Law writers has said: "Reading without hearing is dark and irksome; hearing without reading is slippery and uncertain; neither of them yield seasonable fruit without conference."

At a stated meeting of the board of trustees, held October 2, 1849, it was "resolved, that the committee on the government of the college be instructed to consider and report whether any change can be advantageously made in the course of studies for undergraduates, or any additional facilities provided for securing lectures which shall be open to the public on subjects not embraced in the present course of study, and also to consider and report what may be deemed useful in connection with these subjects."

The committee consisted of Mr. Joseph R. Ingersoll, chairman, Mr. Breck, Mr. Kuhn, Rev. Dr. Dorr and Bishop Potter. On March 5, 1850, they reported, among other matters, that the board will proceed at an early day to the election of a professor of law for three years; and on the same day it was resolved that at the next stated meeting they would proceed to elect a professor, and that nominations be then received. The Hon. George Sharswood was then named for the place, and on April 2, 1850, was duly elected. On the 7th of May he formally accepted the appointment, and delivered his

first introductory lecture on the 30th of September, in the hall of the University building, upon Ninth Street.<sup>1</sup>

The interest awakened by the revival of the department was greater than could have been anticipated. The reputation of the lecturer at once re-established the school, and he found himself attended by members of the bar in active practice, as well as by undergraduates. At the close of the first collegiate year, on May 6, 1851, Professor Sharswood communicated a report to the Board of Trustees of the proceedings of the school, which was ordered be printed. Unfortunately, this direction was either never carried out, or no copies were preserved. The best evidence of the zeal and fidelity of the Professor, and of the enthusiasm of his pupils, is to be found in the resolutions adopted by the class, and addressed to the trustees: "*Resolved*, That in the re-establishment of the Law Professorship of this University the trustees have conferred a substantial benefit upon the Philadelphia Bar. *Resolved*, That the series of lectures delivered during the present term by Professor Sharswood have been listened to by the class with equal pleasure and profit, and have been marked by a sound, practical, useful and liberal character eminently designed to aid the practitioner in his daily professional duties. *Resolved*, That the thanks of the class are justly due to Professor Sharswood for the faithful, laborious and effective discharge of his duties."<sup>2</sup>

The students were divided into two classes, and two evenings a week were devoted to each class. The text-books employed were the commentaries of Blackstone and Kent. Parallel with the course of study was a course of lectures on "the Institutes of the Laws of Pennsylvania." Oral examinations of such members of the class as desired it, were held after the lecture. A question was presented once a month, upon which opinions were requested from the class; and a moot court was subsequently held before the Professor, at which it was discussed.

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<sup>1</sup> Lecture I. "On the Profession of the Law." Lectures Introductory to the Study of the Law. By George Sharswood. Philadelphia, 1870.

<sup>2</sup> Minutes of Trustees.

It could not be denied, however, that the burden of conducting two classes of students over the entire field of jurisprudence was too heavy for one teacher to bear, especially one occupied in the discharge of the laborious duties of President Judge of the District Court for the City and County of Philadelphia, and engaged at the same time in delivering a course of lectures upon commercial law before the Business College. Of this the trustees became sensible as early as December, 1851, when it was resolved that the Committee on the government of the College inquire and report as to the expediency of extending the Law School so as to embrace one or more additional professorships. The committee submitted a plan, which, after various delays, was thoroughly discussed, and finally adopted on the 4th of May, 1852.

A Faculty of Law was then established, consisting of a Professor of the Institutes of Law, including, *inter alia*, International, Constitutional, Commercial and Civil Law; a Professor of Practice, Pleading and Evidence at Law and in Equity; a Professor of the Law of Real Estate, Conveyancing and Equity Jurisprudence.

Rules were also adopted regulating the matriculation of students, and providing that every student who, after matriculation, shall have attended at least four terms with each Professor, may, upon the recommendation of the Faculty, proceed Bachelor of Laws. A certificate of proficiency was to be awarded to any one attending the lectures of only one or two of the professors.

On the 1st of June, the board elected Judge Sharswood to the chair of the Institutes; Peter McCall, Esq, to the chair of Practice; and E. Spencer Miller, Esq, to the chair of Real Estate and Equity.

At the same meeting, in pursuance of a resolution of the 20th of April, 1852, that at the July Commencement the Degree of Bachelor of Laws may be conferred on such students as shall have attended at least two courses of Professor Sharswood, and shall be recommended by him for that degree, it was resolved that a mandamus be issued for the degree of Bachelor

of Laws upon the gentlemen who had been recommended by the Professor of Law for the same. The first degrees were conferred at the public Commencement of July 2, 1852.

Judge Sharswood was chosen Dean of the Faculty, and prepared a prospectus, which was published in the annual catalogue of the University. The fee to each professor was fixed at ten dollars for each term of four months, there being two terms in each year. No matriculation fee was required. Each professor regulated his own course of instruction, and combined examinations and moot courts with his lectures, so as to make the system as complete as possible.<sup>1</sup>

The Supreme Court of Pennsylvania encouraged the interests of the Department by adopting a rule admitting to practice in that Court all those who had received the degree of Bachelor of Laws from any College or University of the State, and who had received a diploma or proper certificate of graduation, and who had been admitted to practice by any Court of Common Pleas or District Court of the State.<sup>2</sup> The rules of the District Court and Court of Common Pleas of the county of Philadelphia, though not entitling a graduate to admission to the bar, considered the time occupied in the Department, with respect to admission, as equivalent to a like term of regular clerkship in the office and under the direction of a practicing attorney, but did not dispense with the requirement of an office-preceptor.<sup>3</sup>

For years, under these auspices, the same system was pursued. The professors avowedly did not attempt to embrace in their course the peculiar laws and rules of procedure of all parts of the Union, but taught the general principles of jurisprudence common as a foundation to the laws of all the States, and applied them to the practice of Pennsylvania, at the same time taking a sufficiently comprehensive sweep to aid those who had not the bar in view in acquiring knowledge of any

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<sup>1</sup> Prospectus of Law Department. Catalogue, 1852.

<sup>2</sup> Rules of the Supreme Court of Pennsylvania. Walker's Court Rules—Edition of 1857, page 86.

<sup>3</sup> Rules of the District Court, and Court of Common Pleas. *Ibid.* Pages 7, 44.

one or all of the branches of legal learning. The merchant and the conveyancer could attend with profit the particular lectures appropriate to their pursuits.

There was no examination for matriculation, nor was any college degree or any previous line of study required. There was no formal examination, either written or oral, for a degree. Those who received the degree of Bachelor of Laws did so upon the recommendation of the Faculty, based upon attendance at lectures and examinations throughout two years, and were thereafter permitted to attend any lectures free of charge.

The Law Academy of Philadelphia, which had been founded in 1783, and incorporated in 1838, acted as an efficient auxiliary, and though in no way connected with the Law School, save by the accident of neighborhood, drew to its membership many, if not all, of the students of the school, and gave them opportunities for debate and argument of questions of actual occurrence, which were of great practical advantage.

But few events occurred to break the placid surface of the stream on which the fortunes of the school were now embarked. The winds were gentle, and the sky was fair. The first Faculty, under a by-law relating to all departments other than the Medical Department and that of the Arts and Sciences, held their positions for a term of three years only. In May, 1855, all were re-nominated to fill their respective chairs, and in July were re-elected. In March, 1856, at the suggestion of the Faculty, the trustees adopted a rule declaring that students who had passed one year or more in the regular study of the law at the University, College, or at other institutions established for that purpose, might, at the option of the Faculty, receive a degree, after attendance for two consecutive terms.<sup>1</sup> This privilege was found, upon experience, to be too liberal, and was subsequently withdrawn. The distinguished character of the members of the Committee of Trustees on the Law Department, consisting of Oswald Thompson,

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<sup>1</sup> Minutes of the Trustees.

Meredith, Binney, Thomas I. Wharton, and Benjamin Gerhard, insured vigilant guardianship of the interests of the school, but it appeared, for a time, at least, that the ward was strong enough to walk alone, for in 1857 the Committee briefly reported that "they had no business." In 1858 the same professors were re-elected, and in 1859 and 1860 requests were made for appropriations to the Law-library, and for furnishing a room to be set apart for the exclusive use of the law classes. All these were favorably acted upon.

Professor McCall, on the 5th of June, 1860, presented his resignation, which was accepted with expressions of regret.

Peter McCall was born near Trenton, N. J., on the 31st of August, 1809, was educated at the College of New Jersey, and died 2d of November, 1880. From the day of his admission to the Philadelphia bar—1st of November, 1830,—to that of his death, in public and in private, his life was singularly pure and blameless; a model of deportment to his brethren, young and old, a mirror of untarnished honor, a striking proof of how good a man a lawyer can be, of how trusted and revered a lawyer a good man can become. He held but few public positions, serving in both branches of the City Councils, and in 1844 as mayor of the city. He was the author of several addresses intimately connected with the judicial history of Pennsylvania, and marked with the grace and beauty of expression that belonged to all he said and wrote. The story of his useful, quiet but impressive career has been recently told in simple yet touching eloquence by a life-long friend; while his successor as Chancellor of the Law Association, in a sentence of exquisite beauty, declared that "what was said of him while he was living could hardly be added to since he had died."<sup>1</sup>

Some delay occurred in the choice of a successor. In the fall of 1860 Mr. McCall was requested to continue his course of lectures until his successor was elected and ready to enter upon the duties of his position. The state of Mr.

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<sup>1</sup> *A Memoir of the late Hon. Peter McCall* (Chancellor of the Law Association of Philadelphia). Read before the Association, at the hall of the Historical Society of Pennsylvania, on Thursday evening, January 13, 1881, by *Hon. Isaac Hazlehurst*.

McCall's engagements did not permit him to comply with this request. Judge Sharswood and Mr. Miller were re-nominated for their respective chairs, and the Hon. J. I. Clark Hare and Mr. Henry Wharton were nominated for the vacant place. From time to time the election was postponed, until, in October, 1862, Mr. P. Pemberton Morris, who had been also nominated, was requested to temporarily fill the chair. In the following month Mr. Morris was elected Professor of Practice, and still continues to discharge the duties of his responsible position.

The dark days of our civil war affected, as was natural, the fortunes of the school. In 1861 there were seventy-one students, of whom eighteen received degrees; in 1863 the attendance had fallen off to forty-seven, and the number of graduates to two. In 1865 the classes increased to sixty-two, and the graduates to twelve, but it was not until 1876 that recovery and improvement were visible.

In 1867 a communication was received by the trustees from Professor Miller, suggesting the removal of the Law School to a building owned by the University upon Fifth Street, as being more convenient to students and teachers. After debate, it was resolved that a change of location was inexpedient.

Early in 1868 the Hon. George Sharswood, having been elected as one of the Associate Justices of the Supreme Court of Pennsylvania, presented his resignation as Professor of the "Institutes." In a letter addressed to the trustees, dated January 23, 1868, he uses these words: "At the close of this collegiate term I will have completed my eighteenth year of service in the chair from which I now retire. I leave it with regret,—its labors have always been pleasant,—but I am reconciled to the change by the consideration that it will be for the interest of the Law Department that my place should be supplied by some younger man, who can bring to the performance of its duties that time, energy and freshness which I feel sensibly are lacking in me. That you may be able to speedily select such a successor, who will maintain and



advance the reputation of the school, is the sincere prayer of your obliged and humble servant."

George Sharswood was born on the 7th of July, 1810, and graduated from the University of Pennsylvania on 31st of July, 1828, with the highest honors, delivering the Greek salutatory. He studied law with Hon. Joseph R. Ingersoll, and was admitted to the bar 5th of September, 1831. In 1837 he was elected to the Legislature. In 1838 he was a member of Select Council of Philadelphia. In 1841 and in 1842 he was again elected to the Legislature. On 8th of April, 1845, he was appointed Associate Judge of the District Court for the City and County of Philadelphia. In 1848 he became its President. In October, 1851, under the New Constitution of the State, he was elected by a large majority to the same position. In 1868 he was elected to a seat on the bench of the Supreme Court of Pennsylvania; and on the 1st of January, 1880, became Chief Justice of the State. It would be indelicacy to the living to trace, even in outline, the features of his career, to estimate the value of those contributions to legal literature with which he has enriched our jurisprudence, or to speak of the wisdom and learning with which he has adorned the bench; but as his services to the cause of professional education have become the most precious portion of the history of the school, it cannot be inappropriate to acknowledge the heavy obligations due to him who bore aloft alone the weight of a great enterprise, and by courage, energy, enthusiasm, industry and learning established upon the foundations of success an institution that had twice failed in distinguished hands.

In April, James Parsons, William Henry Rawle, Furman Sheppard and Asa I. Fish were nominated as candidates for the vacant chair. In May the name of Hon. J. I. Clark Hare was added to the list, and in the following month Judge Hare was unanimously elected. He immediately resigned as a trustee, to accept the duties of the place that he now fills.

In the early part of 1872, the United States Government having purchased the property of the University on the west

side of Ninth Street, north of Chestnut, as a convenient site for the Post-office, the question of the removal of the Law School to the new and splendid building of the Department of Arts and Sciences in West Philadelphia was warmly discussed. Professor Miller, burdened with professional engagements, opposed the removal, as calculated to injure the interests of the Department by inconveniences occasioned to students and professors by the distance to be traveled, and, returning to his old plan of 1867, suggested that the building on Fifth Street, belonging to the University, should be remodelled; the lower rooms to be occupied as offices, the second floor as a lecture-room or hall where students could spend the mornings in study. Mr. Miller agreed to occupy the lower offices, and guarantee a rent equal to that then received, to devote his private library to the use of the School, and to alter and refit the building at his own expense. Professor Morris had declined to join in this undertaking, and it was submitted to the trustees by Mr. Miller individually. The lessees of the Fifth Street building, distinguished members of the bar, opposed the plan. It was also argued that, if adopted, its tendency would be to draw all the law-students in the city to Mr. Miller's office as private students, that his work would be done by them, and that the consequent hostility of the bar would destroy the school. It was fitting also that all the departments of an university should be gathered under one roof.

The plan was rejected, and Mr. Miller resigned on 4th of June, 1872. Mr. Miller had been dean from the date of Judge Sharswood's resignation to that of his own. The trustees, on 2d of July, 1872, in accepting Mr. Miller's resignation, expressed their appreciation of the eminent ability and zeal which had distinguished his discharge of duty, and regretted that the University should be deprived of his learning and services.

E. Spencer Miller, who for twenty years had taught the law of real estate, conveyancing and equity jurisprudence with peculiar and characteristic ardor, was born in 1818, and died, at the age of sixty-two years, on March 6, 1879. His

early life was spent at Princeton, New Jersey, where his father was for many years associated with the Rev. Archibald Alexander, D.D., in the establishment of the Theological Seminary of the Presbyterian Church. He was the grandson, on his mother's side, of Jonathan Dickinson Sergeant, the first Attorney-General of Pennsylvania. After graduating from Princeton he studied law with his uncle, the celebrated John Sergeant, and went to Baltimore, where he was admitted to the bar. Removing to New Jersey, he became associated in practice with Chancellor Green. Finally he came to Philadelphia, and was admitted to the bar on 6th of May, 1843, devoting himself almost exclusively to the duties of his profession. He was for many years one of the Censors of the Law Association and a Vice-Provost of the Law Academy. He served one term as a member of Select Council, advocating the cause of the tax-payer against legislative extravagance. In 1862, while serving in this capacity, he took the field as captain of a howitzer battery, and served in "the emergency campaign" of 1863. He was frequently led by an ardent wish for good government to participate in town meetings and platform addresses upon questions of municipal interest. A scholar of many accomplishments, a graceful and vigorous writer of both poetry and prose, an indefatigable worker, a nervous and at times forcible speaker, he won and for many years maintained a leading position at the bar. His arguments were ingenious and learned, his capacity for unremitting labor unbounded, his devotion to the interests of his clients untiring. His practice was large and varied; no cause, however insignificant, was ever neglected, and his advocacy of trifling claims in our modern courts of *pie poudre*, where the dusty feet of ragged suitors tread wearily in search of justice, was as vehement and protracted as his discussion of the gravest juridical problems before the highest tribunal of the State was earnest and exhaustive. His elocution was peculiar. For many minutes at a time he would argue in a low, soft tone of voice, with intonations agreeable and delightful, and then suddenly explode with fierce and fiery emphasis into a volley of impassioned speech.

These bursts of fury were fitful, short and unsustained, and marred the effect of his speaking. His mind was as elastic as a steel spring, yielding deceptively, and then recovering with an expansive force that seemed to depend for its degree upon the amount of previous compression. His adversaries never knew when they had conquered him. As a teacher he deserved high praise. His successor has declared that he was the most successful lecturer that our bar had ever produced. His style was simple and extemporaneous, and his preparation thorough and painstaking.<sup>1</sup> He died, pen in hand, at the post of duty.

The new building of the University in West Philadelphia was opened for the reception of students on the 16th of September, 1872, and was formally and publicly dedicated with impressive ceremonies to its present use on the 11th of October. The removal of the Law School, however, did not take place until two years afterwards. Lectures were delivered during the fall of 1872 and the winter and spring of 1873 in the trustees' room of the Ninth Street building, and during the succeeding fall and winter "the Paine building," on Ninth Street, south of Locust, was leased for the joint purposes of the Medical and Law Departments.

On the 2d of July, 1872, E. Coppeé Mitchell, W. M. Tilghman, George Tucker Bispham, James Parsons, Richard L. Ashhurst and Henry Wharton were nominated to fill the existing vacancy. In October it was resolved that E. Coppeé Mitchell be appointed temporary lecturer until the close of the current term. In January, 1873, Mr. Mitchell was appointed lecturer for the second term. In April, 1873, Mr. Mitchell was elected Professor of the Law of Real Estate and Conveyancing and Equity Jurisprudence.

Most important steps were now taken to increase the efficiency of the Department and to enlarge the curriculum. The standing committee of the Board of Trustees on the Department of Law, for the year 1873, consisted of Judge

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<sup>1</sup> Remarks of E. Coppeé Mitchell, Esq., at Bar Meeting. *Legal Intelligencer*, March 15, 1879.

Sharswood as chairman, Alexander Henry, Eli K. Price, Peter McCall and N. B. Browne. Various plans were submitted and discussed, and finally on the 6th of January, 1874, the board of trustees reorganized the Law Department according to the following plan:

"There shall be instituted two new Professorships, one to be called of Personal Relations and Personal Property, and the other of Medical Jurisprudence. The Faculty shall then be composed as follows:

"1. A Professor of the Institutes of Law, to whom shall be assigned the subjects of International Law, Constitutional Law, Conflict of Laws, Criminal Law, Contracts, including Promissory Notes and Bills of Exchange, Suretyship and Guaranty.

"2. A Professor of Personal Relations and Personal Property, to whom shall be assigned the subjects of Personal Relations, Corporations, Agency, Partnership, Insurance, Title to Personal Property, Contracts of Sale, Bills of Lading, Bailment, Common Carriers, Pledges and Chattel Mortgages, Executors and Administrators.

"3. A Professor of Real Estate, Conveyancing and Equity Jurisprudence, to whom these subjects shall be assigned.

"4. A Professor of Practice, Pleading, and Evidence at Law and in Equity, to whom these subjects shall be assigned.

"5. A Professor of Medical Jurisprudence, to whom that subject shall be assigned.

"There shall be two terms in each year, from October to January and from February to May inclusive. The full course shall be two years; each Professor shall arrange the subjects committed to him in such order as he may deem most expedient, and the same shall be published in the Catalogue.

"Attendance upon the full course (except the Lectures of the Professor of Medical Jurisprudence) shall be necessary to obtain the Degree of Bachelor of Laws. The fee for attendance upon the Lectures of the Professors (except the Professor of Medical Jurisprudence) shall be determined by them, shall be paid to the Dean of the Faculty, and divided by him among the said four Professors in the proportion of the number of Lectures delivered by each respectively.

"Any one of the Professors, including the Professor of Medical Jurisprudence, may issue tickets for his own course alone for such fee as he shall determine.

"Examinations, moot courts, and other exercises to be in the discretion of the Professors respectively.

"A hall shall be assigned for the exclusive use of the Law Department in the University Building by the Committee on Buildings in conjunction with the Committee on the Law Department, where the Lectures

shall be delivered, which hall shall be open for the use of the students for the purpose of pursuing their studies in private, at such hours and under such regulations as the Law Faculty shall determine."

James Parsons was nominated for the chair of Personal Relations and Personal Property, and in February was elected; at the same time John J. Reese, M.D., who was Professor of Medical Jurisprudence, including Toxicology, in the Auxiliary Department of Medicine, was called to the same chair in the Department of Law.

Professor Mitchell was chosen dean, and still acts in that capacity.

The increasing dignity and importance of the school demanded a radical change in the system of conferring degrees. They had been obtained by attendance upon lectures simply, without examinations, and were naturally cheaply valued. Henceforth they were to be won by hard work and intelligent industry alone.

The following statute, fixing the qualifications of candidates for graduation, was adopted by the board of trustees in the year 1875:

"In order to obtain the degree of Bachelor of Laws there shall be required of every candidate:

"1. That he shall have attended upon the full course of instruction (both Lectures and Examinations) given in the Law Department, except the lectures on Medical Jurisprudence.

"2. He shall have prepared and submitted to the Faculty, at some time to be fixed by them, an essay, composed by himself, on some legal subject, sufficient in merit to satisfy the Faculty of his fitness to receive the degree.

"He shall have passed an examination at the end of each session upon the subjects of study during that session. The examination shall be conducted by the Faculty, either orally or in writing, as they may determine, in the presence of such of the members of the committee on the said Law Department belonging to this board as may choose to attend. And the members of the board of examiners appointed by the Courts of Philadelphia may be present at the examination if they desire to do so."

Other changes were introduced. The moot courts, which had been theretofore held at the close of a lecture, when both

lecturer and students were jaded, and subject to the serious objection of discussion broken by frequent continuances, were now held upon a special evening assigned to each case, and the argument of points prepared by the professors was uninterrupted. The written and oral examinations became severe. The use of the library of the Law Association of Philadelphia was secured to the students in the Law Department at reduced rates, and also the right of access to the University Library, as well as that of attendance upon the lectures in the other departments, on English History and Literature, Rhetoric, Intellectual and Moral Philosophy, and Social Science. An opportunity was thus given to students of small means or of imperfect education to enter a useful and attractive field.

These measures, and the zeal displayed by the Faculty in their enforcement, were an earnest of the fidelity with which the duties of their trust would be performed. In a spirit of praiseworthy liberality the Courts of Common Pleas and Orphans' Court of Philadelphia, in June, 1875, adopted the following rule:

"Any citizen of the United States, of full age, who shall have been graduated Bachelor of Laws by the University of Pennsylvania, after the course of study required in the University, may be admitted to practice as an attorney of this court, if he shall have complied with the rule now in force as to the preliminary examination and been registered for one year in the Prothonotary's Office as a student of law in said University by the dean of the Law Faculty thereof."

The preliminary examination referred to in the rule is conducted by a board of examiners appointed by the courts, and embraces all the branches of a good English education. No one can be registered as a student of law without passing this examination, or producing a diploma from a college of standing. The portals of the profession are thus closely guarded, and he who enters must be worthy.

Upon this foundation the Law School stands to-day. In the face of discouragement and disaster, under the frown of professional distrust, sustained by the courageous and unselfish

toil of men who have devoted their best years to her interests, she has silently but steadily forced her way, urged onward by the weight and value of the principles she teaches, until she now securely rests upon the confidence of the bench and the respect of the bar. Since 1852 she has numbered among her sons many distinguished men; some of them adorn judicial stations, and others are rapidly rising to take their place among those long renowned for eloquence and learning as advocates, and wisdom and prudence as counsellors. Her halls are thronged, her reputation is penetrating into distant places, her usefulness increases with her years. Vigorous and still young, under her auspices periodical contributions to legal literature are made of great and permanent value. Her loyal alumni springing to her support, in May, 1861, obtained a charter for the "Society of the Alumni of the Law Department of the University of Pennsylvania." In 1875, infusing new vigor into the organization, they established the "Sharpswood Prize" and the "Meredith Prize" to be competed for by the graduating class in each year for the best and second best graduating essays, the merits of the essays to be passed upon by the Faculty. In addition to these the Faculty established a prize to be given to the student in either senior or junior class who shall pass the best written examination with all the professors.

It is to be seriously regretted that in a plan of legal education so sound and comprehensive it should not have been deemed advisable to compel attendance upon the lectures of the Professor of Medical Jurisprudence as necessary to a degree. Argument in favor of such knowledge is unnecessary. The lives and liberties of men are frequently the sport of professional ignorance, but never more so than when a medical expert is cross-examined at the bar by one who does not know the difference between the symptoms of drowning and poisoning, or who is unfamiliar with the different phases and stages of insanity. To suggest that a growing sense of inexcusable ignorance will be met by the voluntary attendance of ambitious students is answered by the fact that since 1875,



when Professor Reese was chosen to fill the chair of Medical Jurisprudence in the Law Department, out of hundreds of graduates, but four only ever availed themselves of the opportunity to extend their knowledge beyond the ordinary branches of legal learning, and of these three in 1875 were post-graduate students. The position of the professor is embarrassing. To be a king without a subject is an empty honor. To be a teacher without a pupil is humiliating in the extreme. It is to be hoped that at no distant day this want will be supplied, and this wrong corrected.

Considerable jealousy was manifested for a time of the privileges conferred by the rules of court upon graduates of the Law Department. All idle fears have been allayed by the candor and sincerity of the Faculty, and the practical benefits of the new system. The rules confer powers similar to those immemorially delegated by the courts at Westminster to the Inns of Court, and approved by five centuries of experience to be wise and salutary. Ben Jonson styled the Inns of Court "nurseries of humanity and liberty." If this high praise was deserved in those days, the title to it has not since been lost. The Inns of Court are not corporations erected by State authority, or subject to State control; they are purely voluntary associations, possessing exclusive rights, intolerant of any interference in their government. In theory "all the power they have concerning admission to the bar is delegated to them from the judges, and in every instance is subject to their control as visitors."<sup>1</sup> In practice their power is absolute; they call to the bar, and they expel. Bound together by traditions six centuries old, ambitious to uphold the ancient standards of purity and learning, they have been, and they now are, the truest guardians of professional honor, the most faithful trustees of duty to the State. To place our school upon a similar footing of independence is a gracious and becoming act. To repose confidence is to deserve fidelity, and the best means to secure it.

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<sup>1</sup> Lord Mansfield. *Rex vs. Gray's Inn*. 1 Doug. R., 353.

We have seen that the founding of our Law School was coeval with the Constitution of the United States and the first true Constitution of Pennsylvania. She was the daughter of Liberty wedded to Law, and her sisters were Union and Self-government. From the standpoint of political philosophy her consanguinity is noble. The discovery of the buried manuscript of Amalphi cast a halo about the University of Bologna that irradiated darkened Europe, but the system of jurisprudence then republished to the world was poisoned by the edict that the will of the prince is the law of the subject. The Vinerian Professorship added new glories to venerable Oxford, but the lessons there inculcated were tainted by unqualified tributes to kingly power. Freedom, robed only in laws made by the People, presided over the nativity of our school, and solemnly dedicated her to the high and holy task of teaching the youth of future generations the stately sentence of Clarendon : " The law is the standard and guardian of our liberty, it circumscribes and defends it ; but to imagine liberty without law is to imagine every man with a sword in his hand to destroy him who is weaker than himself."

